

E-Filed 2/9/15

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

VINCENT PRICE MCCOWAN,

No. C 13-0407 RS (PR)

Plaintiff,

**ORDER SETTING BRIEFING
SCHEDULE;**

v.

**ORDER DENYING MOTION FOR
THE APPOINTMENT OF COUNSEL**

B. HEDRICK, et al.,

Defendants.

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The briefing schedule in this federal civil rights action was vacated pending service of process on the sole defendant, A. Avalos. Service having been completed, the Court sets the following briefing schedule. Defendant shall file a dispositive motion, or notice regarding such motion, on or before May 11, 2015. Plaintiff's opposition, if any, shall be filed within 45 days after defendant filed his motion. Defendant's reply, if any, shall be filed within 15 days after plaintiff filed his opposition.

The Court reminds the parties that they are to adhere to all instructions in the second order of service (Docket No. 29). In particular, defendant must adhere to the notice provisions detailed in Sections 2.a and 10 of that order.

1 Plaintiff's motion for the appointment of counsel (Docket No. 45) is DENIED. The
2 decision to request counsel to represent an indigent litigant under 28 U.S.C. § 1915 is within
3 "the sound discretion of the trial court and is granted only in exceptional circumstances."
4 *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). A finding of "exceptional
5 circumstances" requires an evaluation of the likelihood of the plaintiff's success on the
6 merits and an evaluation of the plaintiff's ability to articulate his claims pro se in light of the
7 complexity of the legal issues involved. *See Agyeman v. Corrections Corp. of America*, 390
8 F.3d 1101, 1103 (9th Cir. 2004). Neither the need for discovery, nor the fact that the pro se
9 litigant would be better served with the assistance of counsel, necessarily qualify the issues
10 involved as complex. *See Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997). Plaintiff
11 has not shown that exceptional circumstances exist. The Clerk shall terminate Docket No.
12 45.

13 **IT IS SO ORDERED.**

14 DATED: February 9, 2015


15 RICHARD SEEBORG
16 United States District Judge
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